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6                   UNITED STATES DISTRICT COURT  
7                   EASTERN DISTRICT OF WASHINGTON

8 DENNIS J. TYE,  
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10                   Plaintiff,

11                   v.

12 CAROLYN W. COLVIN,  
13 Commissioner of Social Security,

14                   Defendant.

15  
16                   No. CV-13-171-JTR

17                   ORDER GRANTING STIPULATED  
18 MOTION FOR REMAND  
19 PURSUANT TO SENTENCE SIX  
20 OF 42 U.S.C. § 405(g)

21                   BEFORE THE COURT is the parties' stipulated motion to remand the  
22 above-captioned matter to the Commissioner for a *de novo* hearing pursuant to  
23 sentence six of 42 U.S.C. § 405(g). ECF No. 17. Attorney Joseph Linehan  
24 represents Plaintiff; Special Assistant United States Attorney Catherine Escobar  
25 represents Defendant. The parties have consented to proceed before a magistrate  
26 judge. ECF No. 7.

27                   Plaintiff filed his complaint in this matter on May 8, 2013. ECF No. 1.  
28 Defendant has not yet filed an answer to the complaint. Pursuant to sentence six of  
29 42 U.S.C. §§ 405(g), the Court may remand the case to the Commissioner for good  
30 cause shown before an answer is filed and retain jurisdiction. *See Melkonyan v.*  
*Sullivan*, 501 U.S. 89, 98, 101 n.2 (1991). Here, the parties agree that remand is  
31 necessary because significant portions of the recording of the administrative

32 ORDER GRANTING STIPULATED MOTION FOR REMAND . . . - 1

1 hearing held on August 24, 2011, are inaudible. ECF No. 17 at 1-2. After  
2 considering the file and proposed order, the Court finds good cause exists for the  
3 matter to be remanded for a *de novo* hearing and a new ALJ decision.

4 Accordingly,

5 **IT IS ORDERED:**

6 1. The parties' stipulated motion for remand pursuant to sentence six of  
7 42 U.S.C. § 405(g), **ECF No. 17**, is **GRANTED**.

8 2. Upon receipt of the Court's Order of remand, the Appeals Council  
9 shall remand the case to an ALJ for a *de novo* hearing and a new decision.

10 3. If the outcome of the *de novo* hearing is not favorable to Plaintiff,  
11 Plaintiff may seek judicial review by reinstating this case rather than by filing a  
12 new complaint.

13 4. If the outcome of the administrative proceedings is fully favorable to  
14 Plaintiff, the parties shall file a motion to dismiss the complaint.

15 5. **The Court will retain jurisdiction of this action; no judgment shall  
16 be entered until further order of the Court.**

17 The District Court Executive is directed to enter this Order, forward copies  
18 to counsel, and **ADMINISTRATIVELY CLOSE THE FILE**.

19 DATED October 30, 2013.



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21 JOHN T. RODGERS  
22 UNITED STATES MAGISTRATE JUDGE  
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